

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOHN WADE,

Plaintiff,

v.

**OREGON DEPARTMENT OF
CORRECTIONS**, an agency of the State of
Oregon, **ASHLEY ASTORGA, ANDREW
BIEBER**, and **KADLEC REGIONAL
MEDICAL CENTER**, a Washington nonprofit
corporation,

Defendants.

Case No. 2:21-cv-1086-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on October 20, 2021. Judge Russo recommended that this Court grant Defendants Kadlec Regional Medical Center and Andrew Bieber’s motion to dismiss for lack of personal jurisdiction. No party has filed objections.

Under the Federal Magistrates Act (Act), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Russo’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. *See Jenkins v. Shelton*, No. 3:15-cv-558-SI, 2018 WL 1528753, at *13 (D. Or. Mar. 28, 2018), *aff’d*, 765 F. App’x 156 (9th Cir. 2019) (dismissing for lack of personal jurisdiction claims against an out-of-state doctor who treated a prisoner incarcerated in Oregon). Accordingly, the Court ADOPTS Judge Russo’s Findings and Recommendation, ECF 20. The Court GRANTS the motion to dismiss filed by Defendants

Kadlec Regional Medical Center and Andrew Bieber, ECF 13. Claims against these Defendants are dismissed without prejudice, but without leave to amend in this Court.

IT IS SO ORDERED.

DATED this 16th day of November, 2021.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge